

REMARKS

This paper is being submitted in response to the Office Action mailed in the application on July 7, 2004. Claims 1-12 are pending. Claims 1, 4, 7, 9 and 12 have been amended, and claims 3, 6 and 11 have been cancelled without prejudice.

The Examiner has provisionally rejected applicant's claims 1, 2, 4, 5, 9 and 10 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 4, 5, 7 and 8, respectively, of copending U.S. Application No. 10/611,764. According to the Examiner, although the conflicting claims are not identical, they are not patentably distinct from each other because the sole difference between the claims is the conditional limitation. The conditional limitation of the outstanding claims overlaps with those of the 10/611,764 application for values between $Y = -0.333X + 0.9$ and $Y = -0.333X + 0.7$.

The Examiner has objected to claims 3, 6, 7, 8, 11 and 12 as being dependent upon a rejected base claim, but he has acknowledged that such claims are directed to allowable subject matter and has indicated that they would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

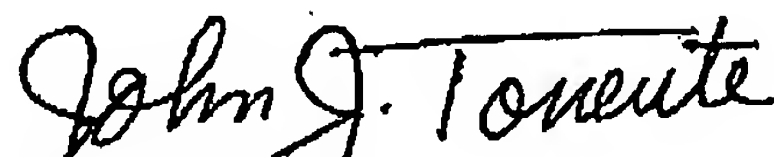
Accordingly, applicant's independent claims 1, 4 and 9 have been amended to include the limitations of claims 3, 6 and 11, respectively. Claims 1, 4 and 9 are therefore submitted as allowable. Based upon applicant's amendment of claims 1, 4 and 9, the Examiner's rejection thereto is submitted as being moot. With respect to applicant's remaining dependent claims 2, 5, 7, 8, 10 and 12, as amended, such claims depend directly or indirectly on applicant's amended claims 1, 4 and 9 and are therefore also submitted as patentable. Reconsideration of the claims is respectfully requested.

If the Examiner believes that an interview would expedite consideration of this Amendment or of the application, a request is made that the Examiner telephone applicant's counsel at (212) 790-9200.

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Respectfully submitted,

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